IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 66 OF 2022

Mohammed Rafi Cheulkar .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Balkrishna G. Tangsali for Applicant.
Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 10th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.196 of 2021 registered at Kalwa Police Station, on 23/06/2021, under sections 417, 420, 467, 468 and 471 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Balkrishna Tangsali, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.) is lodged by one Sachin Bhagat. He has stated that, he was residing in Switzerland in connection of his job. He wanted to start his

business in India. Therefore, he contacted one Masiha Cheulkar who was his friend. Masiha, in turn, introduced the present applicant to the complainant. The first informant stated that the applicant was in the business of sale and purchase of plots. The informant told the applicant that he wanted to purchase a plot in Airoli-Patni area. On their representation the informant entrusted that work to the applicant and his cousin Masiha.

4. In January 2019, the informant inquired with the applicant about the progress. After few days the applicant informed him that one Vasant Shinde was dealing in the transaction regarding plots of MIDC and CIDCO. In February 2019, accused Vasant Shinde told the informant that some plots of the project affected persons were available. The informant expressed his willingness to purchase those plots. He told the applicant about his willingness. Vasant Shind informed the informant that total expenses would be Rs.1,72,00,000/- and asked for certain amount in advance. The F.I.R. goes on to mention different negotiations and ultimately it was decided that the informant would purchase five plots for Rs.2,10,00,000/-. The informant paid substantial

amount i.e. Rs.2,67,85,000/- for various purposes viz. for purchasing of plots, to complete the registration, to complete formalities etc. Ultimately, he came to know that all the permissions and documents shown to him were forged. No plots were allotted in his name. He realized that he was cheated to a huge amount and, therefore, he lodged this F.I.R.

5. Learned counsel for the applicant submitted that the co-accused Masiha who is similarly placed is granted anticipatory bail by this court vide order dated 09/12/2021 passed in A.B.A.No.1955 of 2021. He submitted that the applicant's role is not different from Masiha's role and the applicant also deserves anticipatory bail order. He submitted that, at the highest, allegations against the applicant are that, he received Rs.1 lakh; which amount, he is willing to deposit to show his bonafides. He submitted that, all the transactions were brought about by the co-accused Vasant Shinde. The F.I.R. itself mentions that the applicant was only paid Rs.35000/- which shows that he has not played major role.

6. Learned counsel submitted that the agreements were

entered into between Vasant Shinde and the first informant. The applicant was not a party to the agreements.

7. Learned APP, on instructions, opposed this application. He submitted that, applicant's role is different from that of co-accused Masiha. The applicant has received Rs.1 lakh from the account of one Chachad who is also one of the main accused. Shri. Patil specifically submitted that the applicant himself has signed at least two documents in this connection as a witness and, therefore, it is quite obvious that he was involved throughout the transactions.

8. I have considered these submissions. The F.I.R. mentions that, it was the applicant who introduced the first informant to Vasant Shinde and, thereafter this fraud was committed. There is direct transaction between Chachad who is also one of the co-accused and the applicant, wherein the applicant received Rs.1 lakh. Similarly, as submitted by learned APP, the applicant has signed two documents as a witness. Therefore, at this stage, there is sufficient material to show applicant's involvement. Though, bank account shows that the

applicant has received Rs. 1 lakh, however, entire fraud amount is Rs.2,67,85,000/-. Therefore the offence is serious. The amount involved is huge. The informant is deprived of his legitimate money. The matter requires serious investigation. The applicant's role and that of co-accused Masiha are totally different. No case for grant of anticipatory bail is made out. The applicant's custodial interrogation is necessary.

9. The application is rejected.

(SARANG V. KOTWAL, J.)